

**BEFORE THE**  
**PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2012-390-C**

IN RE:	)
	)
	)
Application of Blue Jay Wireless, LLC	)
For Designation as an Eligible	)
Telecommunications Carrier for the	)
Purpose of Offering Lifeline Service	)
on a Wireless Basis	)

**DIRECT TESTIMONY OF DAVID WAREIKIS**

1   **Q.    WHAT IS YOUR NAME AND BUSINESS ADDRESS**

2    A.    My name is David Wareikis and my business address is 5010 Addison Circle, Addison,  
3           TX 75001.

4  
5   **Q.    ON WHOSE BEHALF ARE YOU TESTIFYING?**

6    A.    I am testifying on behalf of Blue Jay Wireless, LLC (“Blue Jay” or the “Company”), the  
7           Applicant in this proceeding.

8  
9   **Q.    BY WHOM ARE YOU EMPLOYED AND WHAT POSITION DO YOU HOLD?**

10   A.    I am employed by Blue Jay Wireless, LLC and serve as President and Chief Executive  
11          Officer of the Company.

1 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND EMPLOYMENT**  
2 **BACKGROUND.**

3 A. I have a Bachelors of Arts in Economics, issued by the University of Pennsylvania in  
4 1998. Cumulatively, I have fourteen years of professional experience advising, managing  
5 and creating telecommunications companies. Prior to my current position with Blue Jay,  
6 I served as outsourced Chief Financial Officer for Assist Wireless, LLC, a 100,000+ line  
7 wireless provider, based in Texas and operating in Oklahoma and several other states.  
8 With Assist, I facilitated a full range of back office and administrative functions,  
9 including enhancement of billing and ordering software, improvements to inventory  
10 tracking capabilities, budgeting and financial forecasting, financial and operational  
11 auditing, provisioning and contracts negotiations, training and general personnel  
12 development. Prior to that, I served as Managing Director and Consultant with Timeless  
13 Capital, LLC, a Dallas-based company. In that capacity, I acted as senior advisor to  
14 telecommunications companies, including those engaged in Lifeline operations,  
15 providing financial and operational support and analysis for telecommunications  
16 businesses. Prior to that, I served as Director and Vice President of Bluffview Capital, a  
17 Dallas-based company. In that capacity, I acted as senior advisor to numerous media and  
18 telecommunications companies, including those focused on federal Universal Service  
19 Fund operations, providing financial and operational support and analysis for media and  
20 telecommunications businesses. During the prior five years, I worked in various  
21 capacities in the investment banking division of Banc of America focusing on advising  
22 media and telecommunications industry companies.

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY REGULATORY**  
2 **COMMISSIONS?**

3 A. Yes. I have submitted written testimony on behalf of Blue Jay before the Oklahoma  
4 Corporation Commission and the Colorado Public Utilities Commission, and I have  
5 testified directly at a hearing before the Oklahoma Corporation Commission in  
6 connection with Blue Jay's ETC application in that state.

7  
8 **Q. HAVE YOU REVIEWED THE APPLICATION AND OTHER DOCUMENTS**  
9 **FILED ON BEHALF OF BLUE JAY IN THIS PROCEEDING?**

10 A. Yes. I would like to incorporate those documents and that information into this  
11 testimony by reference.

12  
13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

14 A. The purpose of my testimony is to demonstrate that Blue Jay fully satisfies the  
15 requirements, under the Rules of the Federal Communications Commission ("FCC") and  
16 26 S.C. CODE ANN. REGS. § 103-690 for designation as an Eligible Telecommunications  
17 Carrier ("ETC") in the State of South Carolina within the service area proposed in the  
18 Company's Application and, further, that grant of this designation is in the public  
19 interest.

20  
21 **Q. PLEASE BRIEFLY DESCRIBE BLUE JAY AND ITS OPERATIONS.**

22 A. Blue Jay is a recently-established Texas limited liability company, headquartered in  
23 Addison, Texas. Blue Jay was formed by experienced telecom industry professionals,

1 including myself, to provide high-caliber wireless services to consumers across the  
2 United States, including those in South Carolina. The Company's business plan is to  
3 offer domestic voice and data services on a resale basis, primarily to low-income  
4 consumers. The Company provides affordable prepaid wireless voice service, enhanced  
5 with optional data services and supported by high quality customer service. Blue Jay  
6 initiated operations in Texas in September 2012 and is finalizing arrangements to enter  
7 the wireless market in additional states.

8  
9 **Q. PLEASE BRIEFLY DESCRIBE THE SERVICES THAT BLUE JAY INTENDS**  
10 **TO PROVIDE IN SOUTH CAROLINA.**

11 A. Blue Jay expects to offer a menu of prepaid wireless plans to South Carolina consumers.  
12 These plans will consist of a set number of prepaid minutes per month, with or without  
13 rollover, to make voice calls or texts as the customer prefers. Blue Jay will also offer  
14 plans that include data service. Blue Jay plans to offer its prepaid wireless services to  
15 low-income consumers, including those eligible for the Lifeline program.

16  
17 **Q. HOW WILL BLUE JAY'S SERVICE OFFERINGS IN SOUTH CAROLINA BE**  
18 **DISTINCT FROM THOSE OFFERED BY OTHER WIRELESS CARRIERS?**

19 A. In addition to traditional prepaid wireless and Lifeline services offered by many carriers  
20 in South Carolina, Blue Jay will also provide the option for its customers to purchase an  
21 upgraded handset (smartphone) and a data package. Blue Jay will offer among the lowest  
22 cost data plans in the market compared to its competitors. Therefore, whether they

1 qualify for Lifeline or not, low-income consumers can be introduced to the advantages of  
2 mobile data.

3  
4 **Q. WHAT RELIEF DOES THE COMPANY SEEK IN ITS APPLICATION?**

5 A. Blue Jay seeks designation as an ETC in the State of South Carolina for purposes of  
6 receiving federal universal service Lifeline support. The Company does not seek to  
7 receive state or federal high cost fund support or support from any other universal service  
8 funds. In connection with the requested designation, and to the extent deemed necessary  
9 by the Commission, Blue Jay respectfully requests waiver of those provisions of S.C.  
10 CODE ANN. REGS. § 103-690 that at this time differ from the more recently adopted FCC  
11 Rules and the FCC's Lifeline Reform Order.

12  
13 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSED SERVICE AREA FOR**  
14 **ETC DESIGNATION.**

15 A. As discussed below, Blue Jay operates as a reseller and consequently seeks designation as  
16 an ETC in the geographic area in South Carolina where its underlying carriers, Sprint and  
17 Verizon Wireless, provide coverage. Towards this end, on December 6, 2012, the  
18 Company submitted a list of the wire centers in South Carolina where Blue Jay proposes  
19 to offer Lifeline services. Consistent with federal law, rural territories are included in  
20 this list only if Blue Jay can serve the entirety of the rural incumbent's study area.

1 **Q. PLEASE DESCRIBE HOW THE COMPANY WILL PROVIDE ITS SERVICES**  
2 **IN SOUTH CAROLINA?**

3 A. Blue Jay intends to operate as a wireless reseller, purchasing wireless network  
4 infrastructure and transmission facilities on a wholesale basis from Sprint and Verizon  
5 Wireless. As Blue Jay discussed in its Application and subsequently in responses to the  
6 Office of Regulatory Staff's Audit Information Requests, this arrangement initially will  
7 be effectuated through intermediaries, enabling Blue Jay to access competitive wholesale  
8 pricing not directly available to a start-up wireless provider. Blue Jay continues to  
9 evaluate available industry resources to obtain the best pricing and service arrangements.  
10 Based upon that process, Blue Jay now anticipates that it will use the intermediary  
11 services of Telecom Service Bureau, Inc. and/or Natel Networks, LLC for its South  
12 Carolina operations. Blue Jay will apply its own expertise to manage service plan design  
13 and pricing, marketing, and ongoing customer service operations.

14  
15 **Q. WHAT ARE THE REQUIREMENTS FOR DESIGNATION AS AN ETC**  
16 **PURSUANT TO FEDERAL AND SOUTH CAROLINA LAW?**

17 A. The primary requirements of Section 214 of the Communications Act of 1934 ("Act")  
18 with respect to designation as an ETC are that the requesting entity (i) be a common  
19 carrier; (ii) offer the services that are designated for federal universal service support; and  
20 (iii) advertise the availability of these services. Federal law requires that ETCs provide  
21 the supported services using their own facilities or a combination of their own facilities  
22 and resale of other carriers' facilities unless they are granted forbearance from this  
23 requirement. Notably, however, in early 2012, the FCC issued a decision (discussed

below) which establishes a protocol for grant of blanket forbearance to resellers based upon satisfaction of specified conditions.<sup>1</sup> Additional conditions for ETC designation include (i) the applicant's certification that it will comply with service requirements applicable to the support it receives; (ii) demonstration that the applicant will be able to remain functional in emergency situations; (iii) demonstration that the applicant will satisfy specified consumer protection and service quality standards; and (iv) demonstration of financial and technical ability to provide the supported services. Pursuant to S.C. CODE ANN. REGS. § 103-690, ETC designations may be granted only when the designation will further state and federal universal service goals.

**Q. DOES BLUE JAY SATISFY THESE REQUIREMENTS?**

A. Yes.

**Q. WILL BLUE JAY BE A COMMON CARRIER, AS DEFINED IN FEDERAL LAW?**

A. Yes. Section 332(c)(1)(A) of the Act specifically provides that providers of commercial mobile radio services (wireless carriers) are to be regulated as common carriers, and the FCC has clearly reiterated this point.

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<sup>1</sup> See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report And Order and Further Notice Of Proposed Rulemaking, FCC 12-11, ¶ 368 (Feb. 6, 2012) ("Lifeline Reform Order").

1   **Q.     DOES BLUE JAY COMMIT TO PROVIDE THE SUPPORTED SERVICES**  
2       **IDENTIFIED BY THE FCC’S RULES?**

3   A.     Yes. The FCC’s Connect America Fund Order modified Section 54.101 of the FCC’s  
4       rules, which defined the list of supported services.<sup>2</sup> The new rule indicates that the  
5       universal service programs will support “voice telephony service,” which is defined by  
6       four “supported services”: (i) voice grade access to the public switched network; (ii)  
7       local usage; (iii) access to emergency services; and (iv) toll limitation. Following  
8       designation as an ETC, as detailed in Blue Jay’s Application, the Company will provide  
9       each of these services throughout its designated service area.

11   **Q.     WILL BLUE JAY ADVERTISE THE AVAILABILITY OF THESE SUPPORTED**  
12       **SERVICES USING MEDIA OF GENERAL DISTRIBUTION, AS REQUIRED BY**  
13       **47 U.S.C. § 214(e)(1)(B)?**

14   A.     Yes. The Company will advertise the availability of its Lifeline services using methods  
15       reasonably calculated to effectively reach Lifeline-eligible customers in its service area as  
16       required by Sections 54.201(d)(2) and 54.405(b) of the FCC’s Rules as well as S.C. CODE  
17       ANN. REGS. § 103-690. Towards this end, Blue Jay expects to advertise its Lifeline  
18       services in a variety of ways, such as newspapers of general circulation. The Company  
19       will expand these outreach efforts as necessary to ensure that it reaches Lifeline-eligible  
20       customers. Further, Blue Jay will comply with all FCC requirements pertaining to the  
21       content of this advertising, including the disclosures required by Section 54.405(c) of the

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<sup>2</sup>     *See Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, FCC 11-161 ¶ 78 (rel. Nov. 18, 2011), *pets. for review pending sub nom. In re: FCC 11-161, No. 11-9900* (10th Cir. filed Dec. 18, 2011).



1 FCC's rules. Pursuant to S.C. CODE ANN. REGS. § 103-690(a)(7), Blue Jay provided an  
2 affidavit certifying its compliance with these requirements as Exhibit B to its  
3 Application. A two-year plan for advertising and outreach was submitted as Exhibit C to  
4 the Company's Application, pursuant to S.C. CODE ANN. REGS. § 103-690 (C)(a)(1)(C).  
5 Additionally, an example of Blue Jay's advertising was submitted as Exhibit C to the  
6 Company's proposed FCC Compliance Plan (Exhibit A to Blue Jay's Application).  
7

8 **Q. HOW DOES BLUE JAY PROPOSE TO COMPLY WITH THE REQUIREMENT**  
9 **THAT ETC CARRIERS PROVIDE SERVICES SUPPORTED BY FEDERAL**  
10 **UNIVERSAL SERVICE SUPPORT MECHANISMS EITHER BY USE OF THEIR**  
11 **OWN FACILITIES OR BY USE OF A COMBINATION OF THEIR OWN**  
12 **FACILITIES AND RESALE?**

13 A. As noted, carriers have always had the option to request forbearance from the "own  
14 facilities" requirement from the FCC. In February of 2012, the FCC gave new life to the  
15 forbearance alternative. Pursuant to the Lifeline Reform Order, resellers are granted  
16 blanket forbearance from the facilities requirement for low-income-only ETC operations  
17 provided they meet specified conditions. These conditions include: (i) provision of 911  
18 and E911 service regardless of activation status or available minutes; (ii) provision of  
19 E911-compliant handsets and replacement of non-compliant handsets to Lifeline  
20 customers; (iii) filing of a compliance plan containing specific information concerning  
21 both the carrier's service offerings and its compliance with ETC obligations as set forth  
22 in the Lifeline Reform Order, including those aimed at preventing waste, fraud and abuse  
23 within the Lifeline program. Blue Jay proposes to operate in South Carolina and

1 elsewhere pursuant to the FCC's forbearance of the ETC facilities requirement. Pursuant  
2 to S.C. CODE ANN. REGS. § 103-690(a)(6), Blue Jay provided an affidavit certifying to its  
3 compliance with these requirements as Exhibit B to its Application.  
4

5 **Q. HOW WILL BLUE JAY MEET THE REQUIREMENT TO PROVIDE 911 AND**  
6 **E911 ACCESS TO ITS LIFELINE CUSTOMERS?**

7 A. Blue Jay understands its obligation as an ETC to provide access to emergency services  
8 provided by local government or public safety officials. As explained, the Company will  
9 operate by reselling the facilities-based services of Sprint and Verizon Wireless, both  
10 established national wireless carriers. Blue Jay's customers will be provided the same  
11 access to emergency services that Sprint and Verizon Wireless provide to their own  
12 customers. Calls to 911 emergency services will always be free and emergency service  
13 access will be available regardless of service activation status or the availability of  
14 minutes. Finally, Blue Jay will comply with all FCC and Commission requirements  
15 regarding provision of E911-compatible handsets to ensure customer access to these  
16 critical services.  
17

18 **Q. HAS BLUE JAY SUBMITTED A PROPOSED COMPLIANCE PLAN TO THE**  
19 **FCC?**

20 A. Yes. Blue Jay submitted its proposed Compliance Plan to the FCC on May 5, 2012 and  
21 has revised it subsequently in response to FCC staff feedback. On December 26, 2012,  
22 the FCC approved Blue Jay's Compliance Plan, confirming that the Company's proposed  
23 operations comply with the FCC's rules for Lifeline providers.

1 **Q. DOES BLUE JAY SATISFY THE FCC’S ADDITIONAL ELIGIBILITY**  
2 **CRITERIA FOR ETC DESIGNATION?**

3 A. Yes.  
4

5 **Q. SPECIFICALLY, DOES BLUE JAY CERTIFY THAT IT WILL COMPLY WITH**  
6 **ALL SERVICE REQUIREMENTS APPLICABLE TO LIFELINE SUPPORT**  
7 **FUNDING?**

8 A. Yes. Blue Jay certifies that it will comply with the service requirements applicable to the  
9 low-income support it receives as a result of designation as an ETC for the purposes of  
10 providing Lifeline services.  
11

12 **Q. HOW DOES BLUE JAY DEMONSTRATE ITS ABILITY TO REMAIN**  
13 **FUNCTIONAL IN EMERGENCY SITUATIONS?**

14 A. As discussed in this testimony and in the Company’s Application, Blue Jay will utilize  
15 the extensive and well-established Sprint and Verizon Wireless networks and facilities to  
16 provide Blue Jay’s mobile services. The Company believes that the Sprint and Verizon  
17 Wireless networks are capable of managing traffic spikes that may occur during  
18 emergency situations and can reroute traffic in the event of damaged facilities. Blue Jay  
19 also understands that each company has sufficient back-up power to ensure functionality  
20 if its external power supply is unavailable. Indeed, both companies have repeatedly  
21 certified to the FCC that their networks function in emergency situations.<sup>3</sup> Sprint and

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<sup>3</sup> See, e.g., *Sprint Nextel Corporation Verified Filing in Compliance with 47 C.F.R. § 54.209*, CC Docket No. 96-45, at 6 (filed Sept. 30, 2011); *Alltel Communications, LLC d/b/a Verizon Wireless 2011 Eligible Telecommunications Carrier Certification and Annual Report for the State of Georgia / Study Area Code (SAC) 229004*, WC Docket No. 09-197, at 7-9 (filed Sept. 30, 2011).

Verizon Wireless will provide the same functionality to Blue Jay and Blue Jay's customers as these carriers provide to themselves and their own customers.

**Q. HOW DOES BLUE JAY INTEND TO SATISFY ALL THE CONSUMER PROTECTION AND SERVICE QUALITY STANDARDS APPLICABLE TO ITS PROPOSED ETC OPERATIONS?**

A. The FCC and this Commission have confirmed that a wireless ETC applicant may satisfy this requirement through a commitment to comply with the CTIA Consumer Code.<sup>4</sup> Blue Jay willingly commits to comply with the CTIA Consumer Code to ensure that it offers its subscribers the highest degree of protection and service quality.

**Q. DOES BLUE JAY HAVE THE REQUISITE FINANCIAL AND TECHNICAL QUALIFICATIONS TO PROVIDE THE PROPOSED SERVICES?**

A. Yes it does. The Lifeline Reform Order explains that elements of these carrier qualifications include (i) prior experience providing Lifeline service; (ii) length of the carrier's business history; (iii) the degree to which the carrier's operations rely upon Lifeline revenues; (iv) additional sources of revenue available to the carrier; and (v) the carrier's regulatory history, specifically with respect to any enforcement or ETC revocation actions. As discussed in its Application, Blue Jay's principals and affiliates have developed considerable expertise in marketing, particularly to low-income customers, arising from operations dating back to 2004. The Company's affiliates have been delivering customer services for a combined nine years. Their success is reflected

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<sup>4</sup> See 47 C.F.R. § 54.202(a)(3).

1 in long-term reliable profitability, generating substantial revenues. Further, on  
2 September 7, 2012, Blue Jay began providing non-Lifeline prepaid wireless services in  
3 Texas. Blue Jay also has access to additional financial resources, including substantial  
4 cash reserves, available from its owners. Moreover, the Company will actively market to  
5 non-Lifeline customers and consequently will not rely exclusively on Lifeline  
6 reimbursements for its operating capital. Finally, Blue Jay has no adverse regulatory  
7 history and has never been the subject of enforcement actions or ETC revocation  
8 proceedings in any jurisdiction.  
9

10 **Q. HAS BLUE JAY APPLIED FOR OR BEEN GRANTED ETC DESIGNATION IN**  
11 **ANY OTHER STATES?**

12 A. Yes. In addition to the Company's South Carolina Application, Blue Jay has applications  
13 pending in Arizona, Colorado, Minnesota, Missouri, Nevada, Oklahoma, Pennsylvania,  
14 Rhode Island, Texas, Utah, Washington and Wisconsin as well as an application pending  
15 at the FCC for designation in the 10 "federal jurisdiction" states. Blue Jay continues to  
16 prepare applications for filing in a number of additional states within the first quarter of  
17 2013 and throughout the coming year.  
18

19 **Q. PLEASE DESCRIBE THE COMPANY'S PROPOSED LIFELINE SERVICE**  
20 **OFFERINGS FOR SOUTH CAROLINA.**

21 A. Of course. As explained in its Application, the Company will offer two basic Lifeline  
22 service packages throughout its designated service area in South Carolina, except for

1 Tribal areas. In addition, Blue Jay will offer two plans that are only available to Tribal  
2 residents. The Company's proposed Lifeline programs are listed below.

- 3 • **125 anytime prepaid minutes per month**, with rollover, and with text  
4 messaging assessed at a rate of one (1) minute per text message for sending and  
5 one (1) minute per text message for receiving text messages. This plan will be  
6 available throughout the Company's South Carolina service area except in Tribal  
7 areas.
- 8 • **250 anytime prepaid minutes per month**, without rollover, and with text  
9 messaging assessed at a rate of one (1) minute per text message for sending and  
10 one (1) minute per text message for receiving text messages. This plan will be  
11 available throughout the Company's South Carolina service area except in Tribal  
12 areas.
- 13 • **Tribal Resident Lifeline Unlimited Plan.** Each month the customer will receive  
14 unlimited anytime voice minutes for \$5.00 per month plus fees and taxes. Text  
15 messaging will not be available with the unlimited talk plan. There are no rollover  
16 minutes with this plan as minutes are unlimited. This plan will only be available  
17 to Tribal residents.
- 18 • **Tribal Resident Lifeline 1000 Plan.** Each month the customer will receive  
19 1,000 anytime voice minutes or 1,000 text messages for \$1.00 per month plus fees  
20 and taxes. Text messaging will be assessed at a rate of one (1) minute per text  
21 message for sending and one (1) minute per text message for receiving text  
22 messages. There are no rollover minutes with this plan. Unused minutes will

1           expire each month on the service expiration date. This plan will only be available  
2           to Tribal residents.

3       Each of these Blue Jay plans will include nationwide domestic long-distance calling at no  
4       extra per minute charge, as well as a basic menu of features, including Caller ID, Voice  
5       Mail, Call Waiting and Three-Way Calling. Moreover, Blue Jay does not charge its  
6       customers for “roaming.” Therefore, Blue Jay’s usage plan is different from but  
7       comparable to one offered by the ILEC in the same designated service area. Both  
8       customer service (611) and emergency (911) calls will be free, regardless of service  
9       activation or availability of minutes, and these calls will not count against a customer’s  
10      airtime. Directory assistance calls (411) also will be free; however, they will count as  
11      airtime minutes of usage. Lifeline customers will be able to purchase additional bundles  
12      of minutes for as low as \$0.05/minute depending on the minute package purchased. As  
13      an example, customers will be able to purchase a 200 minute package for \$10.00. These  
14      additional airtime minutes will be available for purchase at the Company’s retail  
15      locations and on its website.

16           In addition to free voice services, customers will be entitled to select either a free  
17      wireless handset or to purchase an upgraded phone, such as a smartphone. Customers  
18      choosing to upgrade to a smartphone will be able to add data to their phone plan at a very  
19      competitive cost, starting at \$0.10 per megabyte – a price that can be reduced on a “per  
20      megabyte” basis when the customer purchases multiple megabytes of data. (I would note  
21      that this is a reduction in the price since Blue Jay began filing its ETC applications in  
22      mid-2012. The Company is continually working to achieve greater operating and  
23      packaging efficiencies so that it can pass the savings through to customers.) Blue Jay

1 believes that by enabling low-income customers to add affordable data usage to their  
2 Lifeline voice/text minutes, the Company will help support expanded smartphone  
3 utilization, consistent with the FCC's goal of promoting broadband access to all  
4 Americans.

5 Additional information regarding the Company's proposed plans, rates and  
6 services can be found on its website [www.bluejaywireless.com](http://www.bluejaywireless.com).

7  
8 **Q. ARE THERE ADDITIONAL TERMS AND CONDITIONS ASSOCIATED WITH**  
9 **BLUE JAY'S LIFELINE SERVICE PLANS?**

10 A. Yes. The Company's Terms and Conditions are provided to customers upon request and  
11 are available on Blue Jay's website at [www.bluejaywireless.com](http://www.bluejaywireless.com).

12  
13 **Q. WOULD DESIGNATION OF BLUE JAY AS AN ETC IN SOUTH CAROLINA**  
14 **SERVE THE PUBLIC INTEREST?**

15 A. Absolutely. Designation of Blue Jay as an ETC for Lifeline purposes in South Carolina  
16 will ensure that South Carolina consumers have another choice among carriers. More  
17 importantly, it will ensure the availability of high-quality mobile service to a population  
18 that uniquely benefits from such services. As discussed in Blue Jay's Application, low-  
19 income consumers often work in migratory jobs and may have an above-average  
20 frequency of moving between residences. Wireless service ensures availability of  
21 reliable voice and texting service, even as a customer is "between" homes and/or jobs.  
22 Of equal importance, prepaid wireless such as that offered by Blue Jay protects low-  
23 income consumers from the potentially devastating impact of hidden costs, unexpectedly



1 high monthly charges and long-term contract issues common among the larger carriers.  
2 With Blue Jay's wireless service packages, customers will enjoy the considerable savings  
3 of all-distance domestic calling, and be spared the burdensome expense of long distance  
4 calling charges. The inclusion of texting service in the Company's basic service  
5 packages will provide customers with an increasingly essential tool for family  
6 coordination and work management. Data access will also be available, in varying  
7 megabyte increments, affording customers the opportunity to participate in the  
8 increasingly on-line aspects of daily living. Consumers that regularly incur high minutes  
9 usage will be able to purchase ongoing "additional minutes" plans. Those who  
10 experience an unexpected sudden need for more airtime will be easily able to "top-up"  
11 minutes on a one-time basis. In a persistently challenging economy, low-income  
12 consumers need all these tools at an affordable rate. Because Blue Jay does not impose  
13 credit checks or collect deposits, the Company's services will be readily available to  
14 consumers with the greatest need. Blue Jay's flexible service offerings will allow these  
15 customers to tailor their services to meet their own individual needs. Blue Jay's prepaid  
16 pricing plans will enable them to anticipate their monthly expenditures, avoiding the all-  
17 too-common experience of cell service "invoice shock." Finally, Blue Jay's offering of  
18 these consumer-friendly service packages in the South Carolina telecommunications  
19 market should motivate other carriers to improve their own competitive offerings, to the  
20 benefit of all South Carolina wireless customers.

1 **Q. WILL DESIGNATION OF BLUE JAY AS AN ETC IN SOUTH CAROLINA**  
2 **HAVE ANY EFFECTS UPON COMPETITION IN THE STATE?**

3 A. Very likely. As I was just noting, Blue Jay's entry into the South Carolina market for  
4 telecommunications services should apply a degree of pressure on other providers to  
5 increase the competitive caliber of their service offerings.  
6

7 **Q. WILL DESIGNATION OF BLUE JAY AS AN ETC IN SOUTH CAROLINA**  
8 **HAVE ANY ADVERSE EFFECT UPON THE UNIVERSAL SERVICE FUND?**

9 A. No, it will not. Blue Jay is seeking reimbursement for federal Lifeline services only,  
10 whereas the vast bulk of federal Universal Service Fund ("Fund") expense arises from the  
11 high cost fund subsidies. The FCC has confirmed that the advantages of adding a  
12 Lifeline-only ETC outweigh any potential disadvantages, including the effect on the  
13 Fund.<sup>5</sup> Further, it warrants mention that Lifeline subsidies are customer-specific and  
14 remain the same regardless of which carrier provides the services. While Blue Jay's  
15 presence in the market likely will increase participation in the Lifeline program, a portion  
16 of the reimbursement funding triggered by the Company's operations will simply reflect  
17 customer migration among Lifeline providers. The customers that transfer to Blue Jay's  
18 services will receive a superior service package; however, the Lifeline reimbursement  
19 amount associated with each customer -- and thus the expense to the Fund -- will not  
20 change.

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<sup>5</sup> See *TracFone Wireless, Inc. Petition for Designation as an Eligible Telecommunications Carrier*, CC Docket No. 96-45, Order, FCC 08-100, ¶16, n. 47 (2008).

1   **Q.     WILL BLUE JAY COMPLY WITH THE REQUIREMENTS FOR LIFELINE**  
2       **ELIGIBILITY CERTIFICATION AND VERIFICATION?**

3   A.     Absolutely. Blue Jay is committed to full compliance with the requirements of the FCC  
4           and this Commission regarding certification and verification of a customer's qualification  
5           for Lifeline service and has implemented procedures to ensure the requirements are met.  
6           As described in Blue Jay's Compliance Plan (which was submitted as Exhibit A to the  
7           Company's Application), the Company has developed detailed and comprehensive  
8           procedures to address customer certification and verification requirements as well as the  
9           requirements concerning de-enrollment and duplication of service. These procedures  
10          comply fully with the FCC's recently-revised customer certification and verification  
11          requirements. Blue Jay also commits to comply with the FCC's annual certification  
12          requirement, as well as the FCC's measures to prevent waste, fraud and abuse of Lifeline  
13          services. The Company understands that effective elimination of wasteful and/or  
14          fraudulent drains on limited Lifeline funding can only be achieved through ongoing  
15          coordination with key state agency personnel. For this reason, Blue Jay commits to work  
16          collaboratively with ORS and other appropriate agencies to ensure the initial and  
17          continued eligibility of its South Carolina Lifeline customers.

18  
19   **Q.     HOW DOES THE COMPANY'S DE-ENROLLMENT PROTOCOL WORK ?**

20   A.     As discussed in its Compliance Plan, Blue Jay commits to full compliance with the  
21           FCC's rules requiring de-enrollment of Lifeline customers after 60 days of non-use. The  
22           Company will contact all customers found not to have used their service for 60 days.  
23           These contacts will be made using a combination of first-class mail, text messages and/or

1 phone calls and will clearly alert the customers that continued failure to use their Lifeline  
2 service within a subsequent 30-day period will result in de-enrollment and loss of service.  
3 Subscribers will be instructed as to the means by which they can “use” the service and  
4 avoid de-enrollment. *See* Compliance Plan at 14-15. In addition, Blue Jay will comply  
5 with the FCC’s rules regarding de-enrollment of customers that fail to recertify their  
6 eligibility for Lifeline service on an annual basis. In addition, Blue Jay will de-enroll  
7 subscribers that do not respond to the annual verification or fail to provide the required  
8 certification.<sup>6</sup> Blue Jay will send a single written notice explaining that failure to respond  
9 to the re-certification request within 30 days will result in the subscriber’s de-enrollment  
10 from the Lifeline program. If the subscriber does not respond within the 30 days, the  
11 Company will de-enroll the subscriber within five business days. *See* Compliance Plan at  
12 14.

13  
14 **Q. HOW WILL BLUE JAY ENSURE THAT PROSPECTIVE CUSTOMERS**  
15 **COMPLY WITH THE “ONE-PER-HOUSEHOLD” RULE FOR LIFELINE**  
16 **SUPPORT?**

17 A. As described in full detail in Blue Jay’s Compliance Plan, Blue Jay’s efforts to ensure  
18 that customers receive only one Lifeline benefit per household more than comply with  
19 the FCC’s rules and extend throughout its marketing, enrollment and recertification  
20 processes. First, all Blue Jay marketing materials will include a disclosure stating that  
21 only one Lifeline discount may be received per household, which is consistent with the  
22 requirements of the FCC’s new rules. Second, at the outset of the Lifeline enrollment

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<sup>6</sup> *See* Lifeline Reform Order, ¶ 142; 47 C.F.R. § 54.405(e)(4).

1 process applicants are asked if their household currently receives a Lifeline benefit from  
2 any provider, and Blue Jay will provide the specific names of several major Lifeline  
3 providers in the state, which is not required by the FCC's rules. As part of the enrollment  
4 process, customers are informed about the one per household requirement, including the  
5 definition of household. To enroll, applicants must certify that, to the best of their  
6 knowledge, their household is not already receiving a Lifeline service benefit. As part of  
7 the enrollment process, applicant names and addresses will be checked against an internal  
8 Blue Jay database to avoid duplicate benefits. Finally, customers are required to again  
9 certify that they are not receiving more than one Lifeline benefit per household as part of  
10 the eligibility recertification process.

11  
12 **Q. WILL BLUE JAY COMPLY WITH ALL OTHER FCC AND COMMISSION**  
13 **RULES APPLICABLE TO ETC OPERATIONS IN SOUTH CAROLINA?**

14 A. Yes. The Company stands by the commitments asserted in its Application to comply  
15 with the rules and regulations of the FCC and of this Commission with respect to  
16 provision of Lifeline services in South Carolina, except as waived by the Commission.

17  
18 **Q. WILL BLUE JAY TIMELY PAY ALL APPLICABLE FEDERAL, STATE AND**  
19 **LOCAL REGULATORY FEES AND ASSESSMENTS APPLICABLE TO ITS**  
20 **ETC OPERATIONS IN SOUTH CAROLINA?**

21 A. Yes, it will. Blue Jay acknowledges and accepts its obligations with respect to payment  
22 of federal, state and local regulatory fees, taxes and assessments (including customer  
23 assessment where required).

1   **Q.    WHEN WILL BLUE JAY BE READY TO OFFER LIFELINE SERVICES IN**  
2       **SOUTH CAROLINA?**

3   A.    Blue Jay is currently finalizing its arrangements in order to be ready to initiate operations  
4       promptly after the Commission grants the Company's Application.

5

6   **Q.    DOES THIS CONCLUDE YOUR TESTIMONY?**

7   A.    Yes.

**BEFORE THE**  
**PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2012-390-C**

IN RE:

Application of Blue Jay Wireless, LLC  
For Designation as an Eligible  
Telecommunications Carrier for the  
Purpose of Offering Lifeline Service  
on a Wireless Basis

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**CERTIFICATE OF SERVICE**

This is to certify that I have caused to be served this day, one (1) copy of the **Direct Testimony of David Wareikis** by placing a copy of same in the care and custody of the United States Postal Service (unless otherwise specified), with proper first-class postage affixed hereto and addressed as follows:

**VIA ELECTRONIC MAIL SERVICE**

Courtney Dare Edwards, Esq.  
Office of Regulatory Staff  
Legal Department  
1401 Main Street, Suite 900  
Columbia SC 29201

s/ Carol Roof  
Carol Roof  
Paralegal

January 31, 2013  
Columbia, South Carolina